

TRUST DEED

THIS TRUST DEED, made this 6th day of March, 1981, between

JAMES R. ADAIR, as Grantor, Klamath County Title Company, as Trustee, and ESTATE OF B. MARGUERITE WHYTALE, as Beneficiary,

Grantor irrevocably grants, bargains, sells and conveys to trustee in trust, with power of sale, the property in Klamath County, Oregon, described as:

Exhibit "A" attached hereto.

TRUST DEED

together with all and singular the tenements, hereditaments and appurtenances and all other rights thereunto belonging or in anywise now or hereafter appertaining, and the rents, issues and profits thereof and all fixtures now or hereafter attached to or used in connection with said real estate.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor herein contained and payment of the sum of One Hundred Eighty One Thousand Dollars (\$181,000.00)

note of even date herewith, payable to beneficiary or order and made by grantor, the final payment according to the terms of a promissory note not sooner paid, to be due and payable April 1984.

The date of maturity of the debt secured by this instrument is the date, stated above, on which the final installment of said note becomes due and payable. In the event the within described property, or any part thereof, or any interest therein is sold, agreed to be sold, conveyed, assigned or alienated by the grantor without first having obtained the written consent or approval of the beneficiary, then, at the beneficiary's option, all obligations secured by this instrument, irrespective of the maturity dates expressed therein, or herein, shall become immediately due and payable.

The above described real property is not currently used for agricultural, timber or grazing purposes.

To protect the security of this trust deed, grantor agrees:

1. To protect, preserve and maintain said property in good condition and repair; not to remove, or demolish any building or improvement thereon; not to commit or permit any waste of said property.

2. To complete or improve promptly and in good and workmanlike manner any building or improvement which may be constructed, damaged or destroyed thereon, and pay when due, all costs incurred therefor.

3. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting said property; if the beneficiary so requests, to join in executing such financing statements pursuant to the Uniform Commercial Code as the beneficiary may require and to pay for filing same in the proper public office or offices, as well as the cost of all lien searches made by filing officers or searching agencies as may be deemed desirable by the beneficiary.

4. To provide and continuously maintain insurance on the buildings and such other hazards as the beneficiary may from time to time require, in an amount not less than the full replacement value of the buildings, in companies acceptable to the beneficiary, with loss payable to the beneficiary. The grantor shall fail for any reason to procure any such insurance and to deliver said policies to the beneficiary at least fifteen days prior to the expiration of any policy of insurance now or hereafter placed on said buildings, collected under any fire or other insurance policy may be applied by beneficiary upon any indebtedness secured hereby and in such order as beneficiary may determine, or at option of beneficiary the entire amount so collected, not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

5. To keep said premises free from construction liens and to pay all taxes, assessments and other charges that may be levied or assessed upon or against said property before any part of such taxes, assessments and other charges become past due or delinquent and promptly deliver receipts therefor to beneficiary; should the grantor fail to make payment of any taxes, assessments, insurance premiums, liens or other charges payable by grantor, either by direct payment or by providing beneficiary with funds with which to make such payment, beneficiary may, at its option, make payment thereof, hereby, together with interest at the rate set forth in the note secured by this trust deed, shall be added to and become a part of the debt secured by this trust deed, without waiver of any rights arising from breach of any of the covenants hereof and for such payment, with interest as aforesaid, the property herebefore described, as well as the grantor, shall be bound to the same, defend, and all such payments shall be immediately due and payable upon notice, and the payment thereof shall, at the option of the beneficiary, constitute a breach of this trust deed.

6. To pay all costs, fees and expenses of this trust including the cost of title search, as well as the other costs and expenses of the trustee incurred in connection with or in enforcing this obligation and trustee's and attorney's fees actually incurred.

7. To appear in and defend any action or proceeding, purporting to affect the security rights or powers of beneficiary or trustee; and in any suit, action or proceeding in which the beneficiary or trustee may appear, including any suit for the foreclosure of this deed, to pay all costs and expenses, including evidence of title, and the beneficiary's or trustee's attorney's fees; the amount of attorney's fees mentioned in this paragraph 7, in all cases shall be decreed by the trial court and in the event of an appeal from any judgment or decree of the trial court, grantor further agrees to pay such sum as the appellate court shall adjudge reasonable as the beneficiary's or trustee's attorney's fees on such appeal.

It is mutually agreed that: 8. In the event that any portion or all of said property shall be taken under the right of eminent domain or condemnation, beneficiary shall have the right, if it elects, to require that all or any portion of the monies payable as compensation for such taking, which are in excess of the monies payable to pay all reasonable costs, expenses and attorney's fees necessarily paid or incurred by grantor in such proceedings, shall be paid to beneficiary and both in the trial and appellate courts, and the balance applied upon the indebtedness secured hereby; and grantor agrees, at its own expense, to take such actions and execute such instruments as shall be necessary in obtaining such compensation, promptly upon beneficiary's request.

9. At any time and from time to time upon written request of beneficiary, payment of its fees and presentation of this deed and the note for endorsement (in case of full reconveyance for cancellation), without affecting the liability of any person for the payment of the indebtedness, trustee may

(a) consent to the making of any map or plat of said property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this deed or the lien or charge thereon; (d) reconvey, without warranty, all or any part of the property. The grantor in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals thereof of any matters or facts shall be conclusive proof of the truthfulness thereof. Trustee's fees for any of the services mentioned in this paragraph shall be not less than \$5.

10. Upon any default by grantor hereunder, beneficiary may at any time without notice, either in person, by agent or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, and including reasonable attorney's fees upon any indebtedness secured hereby; and in such order as beneficiary may determine.

11. The entering upon and taking possession of said property, the collection of such rents, issues and profits, or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

12. Upon default by grantor in payment of any indebtedness secured hereby, or in his performance of any agreement hereunder, the beneficiary may, at its option, cause the sale of the property to be advertised and sold by the beneficiary at his election may proceed to foreclose this trust deed advertisement and sale. In the latter event the beneficiary or the trustee shall to sell the said described real property to satisfy the obligations secured hereby, whereupon the trustee shall fix the time and place of sale, give notice thereof (as then required by law and proceed to foreclose this trust deed in the manner provided in ORS 86.740 to 86.795.

13. Should the beneficiary elect to foreclose by advertisement and sale then after default at any time prior to five days before the date set by the trustee for the trustee's sale, the grantor or other person, so privileged by ORS 86.760, may pay to the beneficiary or his successors in interest, respectively, the entire amount then due under the terms of the trust deed and the obligation secured thereby (including costs and expenses actually incurred in enforcing the amounts provided by law) other than such portion of the principal as would not then be due had no default occurred, and thereby cure the default, in which event all foreclosure proceedings shall be dismissed by the trustee.

14. Otherwise, the sale shall be held on the date and at the time and place designated in the notice of sale or the time to which said sale may be postponed as provided by law. The trustee may sell said property either in one parcel or in separate parcels and shall sell the parcel or parcels at auction to the highest bidder for cash, payable at the time of sale. Trustee shall deliver to the purchaser its deed in form as required by law conveying the property so sold, but without any covenant or warranty, express or implied, of the truthfulness thereof. Any person, excluding the trustee, but including the grantor and beneficiary, may purchase at the sale.

15. When trustee sells pursuant to the powers provided herein, trustee shall apply the proceeds of sale to payment of (1) the expenses of sale, including the compensation of the trustee and a reasonable charge by trustee having recorded liens subsequent to the trust deed, (2) to all persons deeded as their interests may appear in the order of the trustee in the trust surplus, if any, to the grantor or to his successor in interest, entitled to such surplus.

16. For any reason permitted by law beneficiary may from time to time appoint a successor or successors to any trustee named herein or to any successor trustee appointed hereunder. Upon such appointment, and without powers and duties conferred upon any trustee herein named or appointed hereunder. Each such appointment and substitution shall be made by written instrument executed by beneficiary, containing reference to this trust deed and its place of record, which, when recorded in the office of the County Clerk or Recorder of the county, or counties in which the property is situated, shall be conclusive proof of proper appointment of the successor trustee.

17. Trustee accepts this trust when this deed, duly executed and acknowledged is made a public record as provided by law. Trustee is not trustee or of any action or proceeding in which grantor, beneficiary or trustee shall be a party unless such action or proceeding is brought by trustee.

NOTE: The Trust Deed Act provides that the trustee hereunder must be either an attorney, who is an active member of the Oregon State Bar, a bank, trust company or savings and loan association authorized to do business under the laws of Oregon or the United States, a title insurance company authorized to insure title to real property of this state, its subsidiaries, affiliates, agents or branches, the United States or any agency thereof, or an escrow agent licensed under ORS 696.505 to 696.585.

The grantor covenants and agrees to and with the beneficiary and those claiming under him, that he is lawfully seized in fee simple of said described real property and has a valid, unencumbered title thereto.

and that he will warrant and forever defend the same against all persons whomsoever.

- (a) primarily for grantor's personal, family, household or agricultural purposes (see Important Notice below);
- (b) for an organization, or (even if grantor is a natural person) are for business or commercial purposes other than agricultural purposes.

This deed applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, personal representatives, successors and assigns. The term beneficiary shall mean the holder and owner, including pledgee, of the contract secured hereby, whether or not named as a beneficiary herein. In construing this deed and whenever the context so requires, the masculine gender includes the feminine and the neuter, and the singular number includes the plural.

IN WITNESS WHEREOF, said grantor has hereunto set his hand the day and year first above written.

IMPORTANT NOTICE: Delete, by lining out, whichever warranty (a) or (b) is not applicable. If warranty (a) is applicable and the beneficiary is a creditor as such word is defined in the Truth-in-Lending Act and Regulation Z, the beneficiary MUST comply with the Act and Regulation by making required disclosures for this purpose. If this instrument is to be a FIRST lien to finance the purchase of a dwelling, use Stevens-Ness Form No. 1305, or equivalent. If this instrument is NOT to be a first lien, or is not to finance the purchase of a dwelling use Stevens-Ness Form No. 1306, or equivalent. If compliance with the Act is not required, disregard this notice. (ORS, 93.490)

JAMES R. ADAIR

STATE OF OREGON, County of Klamath, March 6, 1981

STATE OF OREGON, County of Klamath, March 6, 1981

Personally appeared the above named JAMES R. ADAIR

Personally appeared _____ who, each being first

and acknowledged the foregoing instrument to be his voluntary act and deed.

and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that the instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.

Notary Public for Oregon My commission expires: 8-5-83

Notary Public for Oregon (OFFICIAL SEAL) My commission expires: _____

REQUEST FOR FULL RECONVEYANCE

The undersigned is the legal owner and holder of all indebtedness secured by the foregoing trust deed. All sums secured by said trust deed have been fully paid and satisfied. You hereby are directed, on payment to you of any sums owing to you under the terms of said trust deed or pursuant to statute, to cancel all evidences of indebtedness secured by said trust deed (which are delivered to you herewith together with said trust deed) and to reconvey, without warranty, to the parties designated by the terms of said trust deed the estate now held by you under the same. Mail reconveyance documents to \$16 (2121.000.00)

DATED _____

Do not lose or destroy this Trust Deed OR THE NOTE which it secures. Both must be delivered to the trustee for cancellation before reconveyance will be made.

TRUST DEED (FORM No. 881) STEVENS-NESS LAW PUBL. CO., PORTLAND, ORE.

James R. Adair
2341 Linda Vista Drive
Klamath Falls, OR 97601
Grantor

Estate of B. Marguerite Whytal
c/o Steven A. Zamsky
110 N. 6th, Klamath Falls, OR 97601
Beneficiary

AFTER RECORDING RETURN TO: Steven A. Zamsky, 110 N. 6th, Klamath Falls, OR 97601

STATE OF OREGON, County of _____ ss.

I certify that the within instrument was received for record on the _____ day of _____, 19____, at _____ o'clock _____ M., and recorded in book/reel/volume No. _____ on page _____ or as document/fee/file/instrument/microfilm No. _____, Record of Mortgages of said County.

Witness my hand and seal of County affixed.

By _____ Deputy

EXHIBIT "A"

PARCEL 1:

Beginning at the most Westerly corner of a parcel of land conveyed by Kincaid to Lillard as described in a Deed recorded in Klamath County Deed Records, Volume 114, page 586, which point of beginning is on the Northerly right of way line of Lakeshore Drive and is South $75^{\circ}29'$ East a distance of 118.42 feet from the most Northerly corner of Lot 26 in Ouse Kila Homesites, thence South $45^{\circ}03'$ East a distance of 36.78 feet; thence Southeasterly along the arc of a curve which designates the Northerly right of way line of said Lakeshore Drive, whose radius is 380.9 feet in length, a distance of 163.22 feet; thence North $25^{\circ}0'$ East a distance of 200 feet, more or less, to the shore-line of Upper Klamath Lake; thence Westerly along said shore-line a distance of 150 feet, more or less, to a point which is North $48^{\circ}43'$ East from the point of beginning; thence South $48^{\circ}43'$ West a distance of 136 feet, more or less, to the point of beginning, being a parcel of land in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 26, Township 38 South, Range 8 East of the Willamette Meridian.

PARCEL 2:

Beginning at a point on the East right of way line of Secondary Highway No. 421 which lies North $89^{\circ}59'$ East (this bearing is South $89^{\circ}57'$ East in Lakewood Heights) a distance of 1375.08 feet and South $44^{\circ}08'$ East along the East right of way line of the Highway a distance of 78.29 feet from the iron pin which marks the quarter section corner common to Sections 23 and 26, Township 38 South, Range 8 East of the Willamette Meridian in Klamath County, Oregon, (note this point of beginning marks the most Westerly corner of the tract described on page 531, Volume 164, Deed Records of Klamath County, Oregon) and running thence North $48^{\circ}43'$ East along the Northwesterly line of the above noted tract a distance of 138.5 feet to a point on the shore line of Upper Klamath Lake; thence North $66^{\circ}17'$ West along the shore line of Upper Klamath Lake a distance of 12.76 feet to a iron pin; thence South $43^{\circ}45'$ West a distance of 133.6 feet, more or less, to the point of beginning, said parcel being in Section 23, Township 38 South, Range 8 East of the Willamette Meridian and Section 26, Township 38 South, Range 8 East of the Willamette Meridian.

SUBJECT TO:

Right of Way Easement, including the terms and provisions thereof, from F. H. McCornack, guardian of Estate of Frank H. McCornack, Jr. to The California Oregon Power Company, recorded September 9, 1925, in Deed Volume 68 page 277, Volume 68 page 278, Volume 68 page 279, Volume 68 page 280 and Volume 68 page 281, Deed Records of Klamath County, Oregon.

Exhibit "A" to Trust Deed

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Klamath County Title Co.

his 18th day of March A. D. 19 81 at 4:31 o'clock P.M., and

duly recorded in Vol. M81, of Mtg. on Page 4972

By EVELYN BIEHN, County Clerk
Debra A. Jensen

Fee \$10.50